

**IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

**Patent Application**

**Inventors:** Doree Duncan Seligmann et al.

**Serial No.:** 10/727915

**Conf. No.:** 7569

**Filing Date:** 12/4/2003

**Art Unit:** 2141

**Examiner:** Bradford F. Fritz

**Docket No.:** 630-055US

**Title:** Intelligent Selection of Message Delivery Mechanism

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**Pre-Appeal Brief Request for Review**

The applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

Respectfully,  
Doree Duncan Seligmann et al.

By **/Jason Paul DeMont/**

Reg. No. 35793

Attorney for Applicants

732-578-0103 x11

DeMont & Breyer, L.L.C.  
Suite 250  
100 Commons Way  
Holmdel, NJ 07733  
United States of America

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Dear Sir:

**Pre-Appeal Brief Remarks**

Claims 29 through 52 are pending, have been finally rejected, and are being appealed.

Independent claims 29, 32, 35, 38, 41, 44, 47, and 50 were rejected under 35 U.S.C. 102(e) as being anticipated by D. Vassilovski, U.S. Patent 6,813,264, (hereinafter "Vassilovski").

The applicants respectfully submit that the remarks filed on 4 January 2008 distinguishing the claims from the cited references are correct and that the Final Rejection is incorrect.

The applicants' arguments are summarized here for the reader's convenience.

**35 U.S.C. 102 Rejection of Claims 29, 32, 35, 38, 41, 44, 47, and 50**

Independent claim 29 recites:

**29.** A method comprising selecting one of a plurality of physical media for sending a message from a first telecommunications terminal to a second telecommunications terminal, based on *the semantic content of said message*.

*(emphasis supplied)*

Nowhere does Vassilovski teach or suggest, either alone or in combination with the other references, what claim 29 recites – namely, selecting a physical medium for sending a message based on the message’s semantic content (*i.e.*, the meaning of the contents of the message). For example, a message about a corporation’s strategic plan might be sent via the most secure of available physical media, while a message about football scores might instead be sent via the least expensive of available physical media. Vassilovski, in contrast, teaches setting up a call via one of two methods (circuit switching or packets over the public Internet) based on the destination address or call-setup parameters [Col. 2, lines 41-47]:

*In a preferred embodiment, the SIP server instantiates circuit-switched calls only for intersystem calls requiring voice-call-latency characteristics and end-to-end data connectivity, as might be indicated by, e.g., an address or portion thereof of the destination device not being registered with the SIP server, and/or specific SIP call setup parameters.*

The applicants respectfully submit that Vassilovski teaches nothing about considering the semantic content of the message. Moreover, while the Office’s assertion that

*“Vassilovski teaches a system in which messages that are sent based on their address destination, SIP call setup parameters, or encryption”*

[Final Office action, page 2, second to last paragraph]

might in fact be true, the Office’s subsequent statement

*“meeting the limitation of sending a message based on semantic content of said message”* [ibid]

is false.

For these reasons, the applicants respectfully submit that the rejection of independent claim 29 is traversed.

Independent claim 32 recites:

**32.** A method comprising selecting one of a plurality of physical layer protocols for sending a message from a first telecommunications terminal to a second telecommunications terminal, based on *the semantic content of said message*.  
*(emphasis supplied)*

For the same reason as for claim 29, the applicants respectfully submit that the rejection of claim 32 is traversed.

Independent claim 35 recites:

**35.** A method comprising selecting one of a plurality of medium access controls for sending a message from a first telecommunications terminal to a second telecommunications terminal, based on *the semantic content of said message*.  
*(emphasis supplied)*

For the same reason as for claims 29 and 32, the applicants respectfully submit that the rejection of claim 35 is traversed.

Independent claim 38 recites:

**38.** A method comprising selecting one of a plurality of networks for sending a message from a first telecommunications terminal to a second telecommunications terminal, based on *the semantic content of said message*.  
*(emphasis supplied)*

For the same reason as for the previous claims, the applicants respectfully submit that the rejection of claim 38 is traversed.

Independent claim 41 recites:

**41.** A method comprising selecting one of a plurality of physical media for sending a message based on *the user to whom said message is directed*.  
*(emphasis supplied)*

Nowhere does Vassilovski teach or suggest, either alone or in combination with the other references, what claim 41 recites – namely, selecting a physical medium (*e.g.*, copper, radio, *etc.*) for sending a message based on the user to whom said message is directed.

While Vassilovski does teach using different networks (in particular, the Public Switched Telephone Network [PSTN] versus the Public Internet) for a call based on the destination address of the call, this is entirely different from the present invention as recited

in claim 41. First of all, Vassilovski uses the destination address to determine if the call is an intrasystem call or an intersystem call, and then decides based on this information whether to select the PSTN or Public Internet for the call. Vassilovski therefore decides based on the physical location of the destination which network to use for the call – not on the particular user who is being called (which are two different things, particularly for Voice over IP and other peer-to-peer types of calls). Second, Vassilovski is concerned with selecting a network, and mentions nothing about different physical media (e.g., copper, radio, etc.) for transmitting calls.

For these reasons, the applicants respectfully submit that the rejection of claim 41 is traversed.

Independent claim 44 recites:

**44.** A method comprising selecting one of a plurality of physical layer protocols for sending a message based on *the user to whom said message is directed*.

*(emphasis supplied)*

For the same reason as for claim 41, the applicants respectfully submit that the rejection of claim 44 is traversed.

Independent claim 47 recites:

**47.** A method comprising selecting one of a plurality of *medium access controls* for sending a message based on *the user to whom said message is directed*.

*(emphasis supplied)*

For the same reason as for claims 41 and 44, the applicants respectfully submit that the rejection of claim 47 is traversed.

Independent claim 50 recites:

**50.** A method comprising selecting one of a plurality of networks for sending a message based on *the user to whom said message is directed*.

*(emphasis supplied)*

For the same reason as for claims 41, 44, and 47, the applicants respectfully submit that the rejection of claim 50 is traversed.

If the Office has any questions, please feel free to call the applicants' attorney at 732-578-0103 x11.

Serial No. 10/727915

Attorney Docket: 630-055US  
Avaya Docket: 501035-B-01-US (Seligmann)

Respectfully,  
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